

Guidance for individuals and programs offering support to school-age distance and hybrid learners

The ongoing transmission of COVID-19 across Minnesota has led some schools to provide full or part-time remote learning to students. As school districts make determinations about onsite, hybrid or distance learning models for the school year and families choose distance learning, many Minnesotans need to seek additional arrangements to care for and engage their children during school hours.

Families may look to options in licensed child care settings or youth programs set up to supervise and support distance learning for their children. Families may also turn to “learning pods,” partnerships with other families, or other community-led arrangements. [Critical workers in Tier one sectors](#) may be able to access care during the school-day through their district.

Anyone providing support and supervision for school-age children engaged in distance learning with the child’s school should follow key recommendations from the Minnesota Department of Education, the Minnesota Department of Health, and Minnesota Department of Labor and Industry as summarized below.

Individuals offering support to school-age distance learners ages 5 years and older

- Follow the [indoor social gatherings guidance](#).
 - Keep groups to a maximum of 10
 - Maintain social distancing
 - Wear face coverings
 - Implement frequent handwashing routines
 - Require those who are ill to stay home (follow [exclusion guidance](#))
- Follow all laws applicable to employer-employee relationship if individuals are being paid to provide distance learning support or tutoring.
 - A variety of factors must be reviewed to determine if an individual is an independent contractor or an employee of the family or families paying for the distance learning support services. Generally, these five factors can help you make this determination: the right to control the means and manner of your performance; the mode of payment; the furnishing of tools and

- materials needed; control over the premises where the work is completed; and the right of discharge. Control is the primary factor.
- If the individual offering distance learning support is an employee, they must be covered by workers' compensation insurance. Minnesota Statutes, sections 176.031 and 176.041.
- If the individual offering distance learning support is an employee, they must be paid at least minimum wage. Depending on the number of hours worked, they individual may need to be paid overtime as set forth in the Minnesota Fair Labor Standards Act, Minnesota Statutes, sections 177.21-35.
- If the individual offering distance learning support is an employee and is a minor, child labor laws apply and there are certain restrictions on the maximum hours and time of day worked.
- Please contact the Minnesota Department of Labor and Industry with questions related to obligations under Minnesota workers' compensation, child labor, and wage and hour laws (651-284-5075, 800-342-5354 or dli.laborstandards@state.mn.us).
- See information below on exemptions to Department of Human Services (DHS) licensure for individuals and organizations who provide support for distance learning to school-age children during the peacetime emergency.

Youth programming including certified centers supporting distance learners ages 5 years and older

Youth programs include: certified child care centers, youth enrichment programs, and school-age programs exempt from licensure. Examples include community education classes, YMCAs, school age care programs operated by public and private schools, parks and recreation programs, Boys and Girls Clubs, sports programs, art programs, camps, those operated by non-profits, and 21st Century Community Learning Centers.

- Follow the [COVID-19 Prevention Guidance for Youth and Student Programs](#), which includes guidance on face coverings and exclusion decision tree.
- Ensure children have access to technology and internet as needed to allow children to access instruction with their teacher and peers.
- Work with the families to understand the instructional expectations (e.g. daily Zoom sessions, one to two hours of schoolwork throughout the day, etc.).
- Continue to stay updated on information provided by the district through their website, social media, and voicemail or list serv registration if available.
- If you are a certified center, work with your certification licensor to ensure you remain compliant with certification requirements.
- Review information below on exemptions to DHS licensure organizations who provide support for distance learning to school-age children during the peacetime emergency.

Licensed family child care and center-based providers supporting to school-age distance learners

- Follow the [CDC guidance for childcare that remain open](#) and additional guidance including face coverings and exclusion decision tree [Minnesota Department of Health](#).

- Work with your licensor to ensure that you remain compliant with your licensed capacity, group sizes, and ages served or discuss possible variance options as appropriate.
- Ensure children have access to technology and internet as needed to allow children to access instruction with their teacher and peers, including access to school-supplied technology when provided.
- Work with the families to understand the instructional expectations (e.g. daily Zoom sessions, one to two hours of schoolwork throughout the day, etc.).
- Trying to create a school-like environment is not your responsibility. Continue doing what you already do by providing care and supporting the children's learning in your setting. You don't need to be an expert in any subject area or in any learning strategy. You are not expected to become their teachers, though you will continue to scaffold learning, particularly for younger students. Direct instruction is the responsibility of the child's classroom teacher in the district in which they are enrolled. Direct instruction is planned for and implemented by a licensed teacher.
- Continue to stay updated on information provided by the district through their web site, social media, and voicemail or list serv registration if available.
- Review information below on exemptions to DHS licensure organizations who provide support for distance learning to school-age children during the peacetime emergency.

Temporary modifications to licensing and certification procedures to meet need for additional school-age care

DHS recently clarified that during the peacetime emergency, individuals and organizations who provide support for distance learning to school-age children are exempt from needing a child care license provided the following conditions are met:

1. The program is operated by an individual, group of individuals or an organization and serves only school-age children ages 5 years and older enrolled in public or nonpublic educational setting. A program that provides care and supervision to children younger than age 5 who are not enrolled in kindergarten is required to be licensed under Minnesota Rules, Chapters 9502 or 9503 unless the program meets an exclusion from licensure under Minnesota Statutes, section 245A.03, subdivision 2.
2. The program provides support and supervision of learning as appropriate to the child's needs during the typical school hours of the child's day and no more than one hour before and one hour after the start or end of the typical school hours of the children's day. Hours of support and supervision that exceed this amount must meet an existing exemption from licensure under 245A.03, subdivision 2 or the program must be licensed by the commissioner as a child care program.
3. A program exempt under this waiver must:
 - a. have an individual over age 18 on site at all times who is responsible for the program;
 - b. have obtained written consent from a parent or legal guardian for each school-age child participating in the program;
 - c. have provided written notice to a parent or legal guardian for each school-age child that the program is not licensed or supervised by DHS; and
 - d. comply with [health and safety guidelines](https://www.health.state.mn.us/diseases/coronavirus/schools/socialdistance.pdf) established by the Minnesota Department of Health for youth and student programs (<https://www.health.state.mn.us/diseases/coronavirus/schools/socialdistance.pdf>) .

4. If the individual or organization operating under this exemption also operates a licensed or certified child care program, the exempt program for school-age children must operate as a separate and distinct program, cannot combine children, and cannot share staff or share space with the licensed or certified program when the programs operate at the same time.
5. A program exempt under this clause is not eligible for child care assistance payments under Minnesota Statutes, Chapter 119B.

This temporary exemption from licensure is similar to the exemption for youth development programs but allows for support and supervision during the typical hours a child would be in school.

A **license is required** if the program or individual wants to serve children younger than age 5 or if care is being provided more than one hour before or one hour after the typical hours of the child's school day, unless the program meets an exclusion from licensure under Minnesota Statutes, section 245A.03, subdivision 2.

The physical care and supervision of young children from more than one family, generally under the age of 5 and not engaged in distance learning with their school, is not considered distance learning but is traditional child care. If you are planning to provide care and supervision to children younger than age 5, you will likely need to be licensed or certified by DHS as a child care provider.

- If you intend to provide this type of physical care to children in your own home, you should contact your county child care licensing office for more information about when a license is needed.
- If you intend to provide this type of physical care to children in a setting other than your own home, please contact DHS's Licensing Division at 651-431-6500 or dhs.ccc.licensing@state.mn.us for more information about when a license is needed.